

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW ROSENBLATT,

PLAINTIFF,

v.

NSF INTERNATIONAL,

DEFENDANT.

Case No. _____

Hon. _____

COMPLAINT AND JURY DEMAND

1. This is a lawsuit alleging unlawful age discrimination in employment. Plaintiff Andrew Rosenblatt is a 56-year-old man with a long record of proven effectiveness in global business development in the automotive and TIC (Testing, Inspection, and Certification) industry.

2. In June of 2014, Rosenblatt began working as the Director of Business Development for the ISR Group at NSF International, the world's largest automotive and aerospace certification body, which is headquartered in Ann Arbor, Michigan. In 2017, Rosenblatt was promoted to Director of Global Business Development for the ISR Group, and his annual reviews reflect his success and value to the company.

3. Starting in August 2018, NSF International hired a new Vice President for Human Resources, and this individual has been charged with

clearing out older employees at high ranks within the organization. In the one year and three months since August of 2018, NSF International has terminated at least 12 employees aged 50 or older who held positions of Director and higher. As with many of the other older employees who have lost their jobs in this period, NSF International claims that it terminated Rosenblatt because of an ethical lapse. However, this purported lapse is a pretext to cover over the fact that NSF International terminated Rosenblatt because of his age.

Plaintiff Andrew Rosenblatt, by and through his attorneys, complains of Defendant NSF International as follows:

Parties, Jurisdiction, and Venue

4. This is a civil action brought pursuant to the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 *et seq.*, (“ADEA”) and the Elliott Larsen Civil Rights Act, MCL §§ 37.2101 *et seq.* (“ELCRA”) alleging unlawful age discrimination.

5. Plaintiff Andrew Rosenblatt is a resident of West Bloomfield, Michigan.

6. Defendant NSF International is a Michigan domestic non-profit corporation with its headquarters in Ann Arbor, Michigan.

7. Key events pertaining to this matter occurred in the Eastern

District of Michigan; therefore, venue is appropriate in this Court.

8. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, which authorizes federal courts to decide cases concerning federal questions and 28 U.S.C. §§ 1343(a)(3) and (4), which authorize federal courts to hear civil rights cases.

9. This Court has jurisdiction pursuant to 38 U.S.C. § 1367 over the state-law claim arising from the same core operative facts as the federal questions.

10. On January 17, 2020, Rosenblatt filed a timely charge with the EEOC asserting age discrimination and it has been over 60 days since this charge was filed, and on January 5, 2021, the EEOC issued a notice of Right to Sue on this matter, EEOC Charge Number 471-2020-01508.

Fact Allegations

11. Rosenblatt was 56 years old when he was terminated by NSF International.

12. Between 1986 and 2014, Rosenblatt had a successful career in business development within the automotive engineering industry, including 26 years at Delphi Corporation.

13. During Rosenblatt's 26 years at Delphi, he rose steadily through

multiple promotions, including a prestigious expatriate assignment for developing and implementing new business activities in Eastern/Central Europe and Northern Africa.

14. On May 29, 2014, Rosenblatt was hired by NSF International to serve as the Director of Business Development for its ISR group.

15. NSF International sets standards and certification programs that govern safety for food, water, consumer products, and the environment, it also conducts compliance audits to these standards and offers training and consulting services.

16. NSF International is the world's largest automotive and aerospace certification provider.

17. NSF International employs engineers, microbiologists, toxicologists, chemists, public health experts, and other experts to test and certify a wide range of products and materials.

18. NSF International has annual revenue approaching \$400 Million.

19. The ISR—International Strategic Registrations—Group is a for-profit subsidiary of approximately \$34 Million in annual revenue within NSF International that focuses on quality management and environmental management certification.

20. As the Director of Business Development for ISR, Rosenblatt managed a team of 9 business development managers responsible for the United States, Canada, and Mexico.

21. Rosenblatt also coordinated with people working in the UK, Asia, the European Union and Latin American on global business development activities.

22. In 2014, Rosenblatt's team generated \$1.8 Million in revenue, and by 2018, his team achieved \$4.5 Million in revenue.

23. In Rosenblatt's first year at NSF International, he received a rating of 97 points out of 100 for his bonus calculation.

24. In 2015, Rosenblatt received the rating of "significantly exceeds" goals—and 8 out of 10.

25. In 2016, Rosenblatt was rated as "exceeds" goals – a 7 out of 10—and earned 99% of the possible bonus for which he was eligible.

26. Midway through 2017, Rosenblatt was promoted to Director of Global Business Development for the ISR Group.

27. Rosenblatt's performance for 2017 was also an "exceeds", and he received 90 points out of 100.

28. Of the 10 points Rosenblatt "missed" on his 2017 review, 9 were

based on the corporate performance that year, rather than his own performance.

29. In the summary of his 2018 performance review, his manager noted that despite a challenging environment, Rosenblatt's team finished collectively over goal and built recognition and pipelines in under-achieving territories that were new to the team.

30. Rosenblatt received a 21.3% bonus in 2018, which indicates that he exceeded his goals for the year.

31. In 2019, Rosenblatt's team was on pace to earn \$4.2 Million, despite there being turnover and extended leaves on his team.

32. In June of 2019, at the ISR Auditor Conference, a conference attended by approximately 150 NSF employees and contract auditors, Senior Vice President Tom Chestnut informed the group that "one of the best things about ISR was Andy [Rosenblatt] and his business development team."

33. Notwithstanding his record of excellence, on October 30, 2019, NSF International informed Rosenblatt that it was terminating his employment.

34. NSF International informed Rosenblatt that it made this decision to end his employment because of managerial decisions and actions he took in August and September of 2019 regarding a client, Dean King, who had

demanded that a white male consultant be assigned to his project instead of a non-white employee who had originally been assigned to the project.

35. In taking this action, Rosenblatt had sought to protect this non-white employee from animus and preserve a fragile relationship with a new client.

36. Through Rosenblatt's extensive international business experience, he believed that he was acting appropriately and consistently both generally and within the context of NSF International's policies and practices.

37. Indeed, NSF International maintains as clients and customers many businesses and governments whose policies come into conflict with NSF International's ethics and values.

38. For instance, even though Rosenblatt was the senior person associated with one project, he refrained from signing the business documents for a project with a Saudi Arabian company because his name is recognizable as Jewish and there were concerns expressed by a senior NSF executive that Rosenblatt's status as a Jewish person would compromise the deal with the Saudi company.

39. At another time, NSF International did not move forward with an Israeli joint venture because of concerns among the senior leadership that it

would upset Arab business partners and customers in the region.

40. Other clients and customers of NSF International include China, which often imposes restrictions on its international business partners that are unacceptable within those businesses home countries, and Chick-Fil-A, which was actively boycotted between 2012 and November of 2019 because of its financial support for anti-LGBT organizations and politicians.

41. NSF International at no time addressed its concerns about Rosenblatt's actions in response to the client's request in a corrective or remedial way before ending his employment.

42. NSF International failed to conduct a proper investigation of these allegations before reaching the conclusion to terminate Rosenblatt.

43. Specifically, NSF International did not adequately or accurately inform Rosenblatt of the nature of its concerns and interviewed him two months after the events had occurred and while he was driving his car, rather than scheduling a formal interview with him so that he could properly prepare.

44. Rosenblatt was informed by his business unit's human resources partner that this incident would be an "opportunity for coaching" but was "not a dismissible offense."

45. In other instances, NSF International has merely provided a

warning letter or other corrective responses to other senior managers accused of comparable instances of apparent or perceived discrimination.

46. Rosenblatt's conduct with this customer was not the motivating reason that he was terminated; rather, this incident was a pretext to hide unlawful age discrimination.

47. Indeed, NSF International is not believed to have ended its business relationship with the client, Dean King, who demanded that only a white man be assigned to service his account.

48. Since August of 2018, when Karen Kreza became VP of HR at NSF International, the following senior employees at NSF International have been terminated:

- a. Vice President of Laboratories, believed to be 50 years old;
- b. Chief Information Officer, believed to be 55 years old;
- c. Director of Technical Operations and Business Units, who was over 60 years old;
- d. Global Managing Director, believed to be over 50 years old;
- e. Global Managing Director (Automotive), believed to be over 60 years old;
- f. General Manager (Health Sciences), believed to be 50 years

old;

- g. Global Director of Communications, believed to be over 50 years old;
- h. Global Managing Director, Business Development, who is at least 62 years old;
- i. Director (Food), who is believed to be over 55 years old;
- j. Vice President, who is 59 years old;
- k. Senior Business Development Manager, who is over 50 years old; and
- l. Plaintiff Andrew Rosenblatt, Director of Global Business Development of the ISR Group, who is 56 years old.

49. By contrast, in the 7 years preceding 2018, fewer than 10 senior managers who were older than 50 were terminated.

50. Of the older employees in senior management positions identified in paragraph 43, *supra*, eight were informed that they lost their positions because of supposed ethical violations.

51. Of the older employees in senior management positions identified in paragraph 43, *supra*, at least two have been replaced by employees who are 15 to 20 years younger, while the others' positions have not been filled and

their responsibilities absorbed within the organization.

52. The above-described employees were terminated as part of a concerted effort by NSF International to eliminate older employees in senior management positions.

53. NSF International fired Rosenblatt because he is 56 years old and serving in a senior position.

54. NSF International has not fired others for ethical concerns comparable to the incident that supposedly led to Rosenblatt's termination.

55. Indeed, NSF International regularly requires its senior managers to make culturally sensitive decisions in order to preserve its business relationships with diverse customers.

56. By using the pretext of an "ethical violation" to terminate Rosenblatt and other senior managers, NSF International has attempted to shame these accomplished older employees so that they will disappear quietly and not assert their rights under state and federal employment discrimination laws.

57. NSF International has relied upon conduct that it knows is not a terminable offense, as a pretext for its unlawful termination of Rosenblatt.

58. Rosenblatt has suffered lost wages and benefits and experienced

emotional distress and humiliation by this unlawful employment discrimination based on his age.

COUNT 1: VIOLATION OF THE ADEA

59. Plaintiff incorporates his allegations above by reference here.

60. Plaintiff is a 56-year-old employee covered by the statute.

61. Defendant is an employer within the meaning of the statute.

62. Defendant singled out Plaintiff because of his age for termination of employment even though Plaintiff's conduct was not terminable under Defendant's policies and practices.

63. Defendant falsely assembled supposed concerns about Plaintiff's conduct as a pretext for terminating him unlawfully.

64. Defendant has demonstrated a pattern of discriminatory practices aimed at eliminating its older, senior managers from its workforce.

65. Defendant actually terminated Plaintiff as part of a deliberate, unlawful effort to eliminate older, senior managers from its workforce.

66. As a result of Defendant's discriminatory actions, Plaintiff has suffered economic and compensatory damages.

COUNT 2: VIOLATION OF THE ELLIOTT-LARSEN CIVIL RIGHTS ACT,

MCL § 37.2202 ("ELCRA")

67. Plaintiff incorporates his allegations above by reference here.

68. Plaintiff is a 56-year-old employee covered by the statute.

69. Defendant is an employer within the meaning of the statute.

70. The ELCRA prohibits employment discrimination on the basis of age.

71. Defendant singled out Plaintiff because of his age for termination of employment even though Plaintiff's conduct was not terminable under Defendant's policies and practices.

72. Defendant falsely assembled supposed concerns about Plaintiff's conduct as a pretext for terminating him unlawfully.

73. Defendant has demonstrated a pattern of discriminatory practices aimed at eliminating its older, senior managers from its workforce.

74. Defendant actually terminated Plaintiff as part of a concerted, unlawful effort to eliminate older, senior managers from its workforce.

75. As a result of Defendant's discriminatory actions, Plaintiff has suffered economic and compensatory damages.

Relief Sought

As a result of the NSF International's violations of Rosenblatt's rights under both federal and state law, Plaintiff seeks the following relief and

remedies:

- a. Lost wages and back pay;
- b. Lost future income;
- c. Compensatory damages for the emotional distress and harm to his dignity;
- d. Punitive or exemplary damages as allowed;
- e. Attorney's fees and litigation costs;
- f. Other relief as deemed appropriate by the Court.

Respectfully submitted by:

**PITT McGEHEE PALMER
BONANNI & RIVERS**

/s/ Robin B. Wagner
Michael L. Pitt P24429
Robin B. Wagner P79408
Amanda Ghannam (P83065)
117 W. Fourth Street, Suite 200
Royal Oak, MI 48067
248-398-9800
mpitt@pittlawpc.com
rwagner@pittlawpc.com
aghannam@pittlawpc.com

Dated: January 7, 2021

DEMAND FOR JURY BY TRIAL

Plaintiff, by and through his attorneys, Pitt McGehee Palmer Bonanni & Rivers, P.C., hereby demand a trial by jury of all issues in the within cause of action.

**PITT McGEHEE PALMER
BONANNI & RIVERS**

/s/ Robin B. Wagner

Michael L. Pitt P24429

Robin B. Wagner P79408

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